

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Engrossed House Bill 1386 be amended to read as follows:

1           Page 3, after line 31, begin a new paragraph and insert:  
2       SECTION 3. IC 35-42-4-3 IS AMENDED TO READ AS  
3       FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) A person  
4       who, with a child under fourteen (14) years of age, performs or  
5       submits to sexual intercourse or deviate sexual conduct commits child  
6       molesting, a Class B felony. However, the offense is a Class A  
7       felony if:  
8       (1) it is committed by a person at least twenty-one (21) years of age;  
9       (2) it is committed by using or threatening the use of deadly force or  
10      while armed with a deadly weapon;  
11      (3) it results in serious bodily injury; or  
12      (4) the commission of the offense is facilitated by furnishing the  
13      victim, without the victim's knowledge, with a drug (as defined in IC  
14      16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9)  
15      or knowing that the victim was furnished with the drug or controlled  
16      substance without the victim's knowledge.  
17      (b) A person who, with a child under fourteen (14) years of age,  
18      performs or submits to any fondling or touching, of either the child  
19      or the older person, with intent to arouse or to satisfy the sexual  
20      desires of either the child or the older person, commits child  
21      molesting, a Class ~~C~~ **B** felony. However, the offense is a Class A  
22      felony if:  
23      (1) it is committed by using or threatening the use of deadly force;  
24      (2) it is committed while armed with a deadly weapon; or  
25      (3) the commission of the offense is facilitated by furnishing the  
26      victim, without the victim's knowledge, with a drug (as defined in IC  
27      16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9)  
28      or knowing that the victim was furnished with the drug or controlled  
29      substance without the victim's knowledge.  
30      (c) It is a defense that the accused person reasonably believed that the  
31      child was sixteen (16) years of age or older at the time of the

- 1       conduct.
- 2       Renumber all SECTIONS consecutively.

(Reference is to EHB 1386 as printed March 13, 2007.)

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Senator LEWIS